

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

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|------------------------------|---|----------------------------|
| M.D., ET AL., |) | CASE NO: 2:11-CV-0084 |
| |) | |
| Plaintiffs, |) | CIVIL |
| |) | |
| vs. |) | Corpus Christi, Texas |
| |) | |
| GOVERNOR RICK PERRY, ET AL., |) | Thursday, December 4, 2014 |
| |) | (4:04 p.m. to 4:53 p.m.) |
| <u>Defendants.</u> |) | |

DIRECT EXAMINATION OF CHRISTINA MARTIN
DURING TRIAL - DAY 4

BEFORE THE HONORABLE JANIS GRAHAM JACK,
UNITED STATES DISTRICT JUDGE

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|-----------------|---|
| Appearances: | See Next Page |
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| <u>PLAINTIFFS' WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
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| CHRISTINA RAWLS-MARTIN | 4 | | | |

Corpus Christi, Texas; Thursday, December 4, 2014; 4:04 p.m.

(Partial testimony of Christina Rawls-Martin)

THE COURT: Call your next witness.

MR. YETTER: Your Honor, on behalf of the Plaintiff children, we would call a DFPS council executive, Christina Martin.

(Pause)

MR. YETTER: And -- excuse me, your Honor. She had been in the courtroom a minute ago and --

MR. SPEAKER: She's getting somebody to get her.

(Pause)

THE COURT: Would you administer the oath, please? And watch your step up the incline. No, no. I meant, just be careful when you go up --

MS. RAWLS-MARTIN: Oh.

THE COURT: -- because there's an incline that is hard to see.

MS. RAWLS-MARTIN: Okay, Thank you, your Honor.

THE CLERK: Please raise your right hand.

CHRISTINA RAWLS-MARTIN, PLAINTIFFS' WITNESS, SWORN

MR. YETTER: May it please the Court.

DIRECT EXAMINATION

BY MR. YETTER:

Q Ma'am, would you introduce yourself, please, for us?

A My name is Christina Rawls-Martin.

1 Q Ms. Martin -- are you okay if I call you Ms. Martin or
2 would you -- Rawls-Martin?

3 A Yes. Mrs. Martin -- Ms. Martin.

4 Q Ms. -- Mrs. Martin.

5 A Christina.

6 Q I'll use Mrs. Martin.

7 A Okay.

8 Q You are currently connected with the Department of Family
9 and Protective Services because you serve on its council, do
10 you not?

11 A Yes. I serve on the advisory council.

12 Q There is a council that sits above Commissioner Specia,
13 correct?

14 A No. Not --

15 THE COURT: Well, you -- did you hire him?

16 MR. YETTER: No.

17 THE WITNESS: Did I?

18 THE COURT: Yes.

19 THE WITNESS: No.

20 THE COURT: The council?

21 MR. YETTER: No. The council is -- there's a --
22 there is a DFPS council.

23 THE COURT: Okay.

24 MR. YETTER: To which Commissioner Specia has a
25 dotted line reporting.

1 **THE WITNESS:** Which is actually lateral.

2 **MR. YETTER:** Okay.

3 **THE COURT:** A lateral?

4 **THE WITNESS:** It's lateral.

5 **BY MR. YETTER:**

6 Q Let's --

7 A We are not above the Commissioner.

8 Q Let's -- let --

9 **THE COURT:** What is your -- okay.

10 A Okay. I'm sorry.

11 Q I'm sorry. Let me go ahead and show the exhibit.

12 A Okay.

13 Q We have a chart. You know which chart I'm talking about?

14 A Yes.

15 Q Plaintiffs' Exhibit 811.

16 A Oh, excuse me. Yes.

17 Q You've seen that chart before?

18 A Yes.

19 Q And there is the Department of --

20 A Yes.

21 Q This is a document that the state puts out. It's dated --
22 this particular one is dated February of 2014. Commissioner
23 Specia is there in the box at the top?

24 A Yes.

25 Q Is the Department of Family and Protective Services --

1 there is a box to the left. That is the DFPS council?

2 A Correct.

3 Q Do you see that box?

4 A Yes.

5 Q You are currently the chair -- that's you, Christina
6 Rawls-Martin, that is the chair of the DFPS council?

7 A Yes.

8 Q Nine people on the council, all appointed by the Governor?

9 A Yes.

10 Q You've been on the council for about five years since
11 2009, have you not?

12 A Yes.

13 Q And you were appointed chair about a year ago by Governor
14 Perry?

15 A Yes.

16 Q You serve at the -- at least as according to the press
17 release --

18 **THE COURT:** Do you have to be confirmed, like through
19 the Senate or anything of that?

20 **THE WITNESS:** The -- yes. It has to be a
21 confirmation --

22 **THE COURT:** Okay.

23 **THE WITNESS:** -- through the Senate to go on but the
24 Governor is the only one that chooses the chairman.

25 **THE COURT:** Right. The Governor -- oh, then the

1 Governor chooses the chairman out of the people that have
2 already been --

3 **THE WITNESS:** The people that have already been. So
4 I was on for four and a half years before they chose me.

5 **THE COURT:** So you don't have to be confirmed to be
6 the chair. You had to be confirmed to be on the committee?

7 **THE WITNESS:** To be on the committee, correct.

8 **THE COURT:** Thank you.

9 **BY MR. YETTER:**

10 Q So one year ago, when Governor Perry appointed you as the
11 chair, he also appointed some new members to the council
12 itself, did he not?

13 A Yes.

14 Q And your -- again, as I -- I think the press release said
15 from the Governor's office, you serve at the pleasure of the
16 Governor as the chair?

17 A Yes.

18 Q Now the -- by way of background, you are currently
19 retired, aren't you Mrs. Martin?

20 A Yes.

21 Q And -- but you retired from a business that you were
22 involved in for some 32 years, I believe?

23 A Yes.

24 Q You were in corporate travel? You owned a business in
25 south Texas in McAllen, I think?

1 A In McAllen, yes.

2 Q Called Scotties Tours 'N Travels?

3 A Yes, I did travel for corporate for (indiscernible).

4 Q So, basically businesses that did on both sides of the
5 border have a travel agent that --

6 A Yes.

7 Q -- arranges their travel? You also were on the board of
8 -- you were on the board of a Frost Bank, at least down in
9 McAllen?

10 A Yes. I'm on the State Advisory Board for McAllen.

11 Q For McAllen.

12 **THE COURT:** For -- for what? What does that mean?
13 For Frost Bank?

14 **THE WITNESS:** For Frost Bank.

15 **THE COURT:** Okay.

16 **BY MR. YETTER:**

17 Q By way of education, you have an associate's degree in law
18 enforcement from a junior college in California?

19 A Correct.

20 Q A bachelor's degree in criminology from Sam Houston State
21 in Huntsville, north of Houston?

22 A Yes.

23 Q And then you took courses toward the master's in
24 criminology?

25 A Yes.

1 Q But didn't complete it -- didn't complete the thesis?

2 A (No response.)

3 Q In the year since you've -- in the five years that you've
4 been on the council, you have come to understand how the
5 council works, have you not?

6 A Yes.

7 Q It plays a very important -- it serves a very important
8 role, true?

9 A Yes.

10 Q In fact, it was created by the legislature to assist the
11 Commissioner in developing rules and policies for the
12 Department of Family and Protective Services, true?

13 A Yes.

14 Q And (indiscernible) council, it was --

15 **THE COURT:** Say that again? To assist the
16 Commissioner --

17 **MR. YETTER:** It was created -- I'm quoting from the
18 statute -- created to assist the Commissioner in developing
19 rules and policies for DFPS.

20 **THE COURT:** Is that right?

21 **THE WITNESS:** Yes.

22 **BY MR. YETTER:**

23 Q And one of the thing --

24 A Putting emphasis on assist.

25 **THE COURT:** Pardon?

1 **THE WITNESS:** Putting an emphasis on assist. We're
2 part of a cog, I guess, that has input and we're a group of
3 nine volunteers that have been appointed. We all have
4 different diverse backgrounds and we put input when the rules
5 come up from, I guess representing the people of Texas. So --

6 **THE COURT:** So people just send you suggestions
7 directly?

8 **THE WITNESS:** We -- sometimes they'll talk to us in
9 our community. They send them to them. We have, when we have
10 our council meetings, people can come forward and do public
11 input. And then, of course, a lot of us have different
12 provisions. Like I've done Children's Advocacy Center for
13 Starr County for 13 years now. So we have different input.

14 **THE COURT:** Uh-huh.

15 **THE WITNESS:** So when a ruling will come up, all of
16 these people together will help put -- have an input into what
17 the rule is. We don't create them.

18 **THE COURT:** So, you have input to the Commissioner
19 but if he comes up with policies and rules that he wants to
20 suggest to the legislature, do they go through you, also?

21 **THE WITNESS:** Depending on what the policies are.
22 Usually it's the rules that come up. Like -- for example, how
23 many children that you may be allowed in a daycare center and
24 we'll talk about it and discuss and go through the information
25 and what our feelings are and what we've heard in our

1 community. And then we will -- the Commissioner will be there.
2 We will get reports on it and then from there he will make --
3 or the group will make the decision. But we don't make the
4 final decision. We're part of -- I always consider us as we're
5 the representatives --

6 **THE COURT:** Of the people.

7 **THE WITNESS:** -- of the people of Texas.

8 **THE COURT:** Okay.

9 **BY MR. YETTER:**

10 Q In fact, one of the nine members has to be a former foster
11 child, true?

12 A Yes.

13 Q And today one of the nine members is a former foster
14 child?

15 A Yes. Krisa (phonetic).

16 Q Now, the -- but the purpose of the commission, it was
17 created, according to the statute, to assist the Commissioner
18 not in the day-to-day management of the DFPS, right?

19 A Correct.

20 Q But with the rules and policies for the department?

21 A Yes.

22 Q And as you said, that's -- the council serves a very
23 important role to help protect the foster children of the state
24 of Texas, doesn't it?

25 A Yes.

1 Q And in your role in assisting the Commissioner with -- in
2 developing rules and policies, the council is to study and make
3 recommendations to the Commissioner concerning the management
4 and operations of the department, true?

5 A (No response.)

6 Q I'll repeat it. The council is to study and make
7 recommendations to the Commissioner concerning the management
8 and operations of the department?

9 A Yes. We make -- we have input on it. We make
10 recommendations.

11 Q Including policies and rules?

12 A More rules than policies.

13 Q Fair enough. Your -- we can -- you can explain to me in a
14 minute what the difference is --

15 A Okay.

16 Q -- but including policies and rules that govern two
17 things, the delivery of services to persons who are served by
18 the DFPS?

19 A Yes.

20 Q And the rights and duties of persons who are served or
21 regulated by the DFPS?

22 A Yes.

23 Q So, in terms of PMC children, children within the
24 Permanent Managing Conservatorship of the state of Texas, the
25 council is right there with the Commissioner giving input on

1 the rules and policies that affect the delivery of services to
2 these children and affect their rights, true?

3 A Yes and no. Now I'm going to sound like the other one.
4 The hard thing is we are an advisory board and, yes, we do have
5 input but we don't make recommendations and policy and start
6 them from scratch and sit with the Commissioner and do it on a
7 day-to-day basis. I mean, we --

8 **THE COURT:** Do you conduct studies?

9 **THE WITNESS:** We don't conduct studies but studies
10 are brought to us. We look at the information. We point out
11 where we think maybe that's not right, maybe it's wrong. We
12 ask questions. We get feedback to it. But I don't -- it's
13 almost like you put too much emphasis -- we don't have that
14 much control. I don't know another way to say it. We are an
15 advisory board.

16 **BY MR. YETTER:**

17 Q Mrs. Wilson [sic], in fact, even though this council is to
18 study and make recommendations --

19 **THE COURT:** Mrs. Martin?

20 Q Oh, I'm sorry.

21 A That's okay. I knew what you meant.

22 Q Mrs. Martin, I apologize. Even though the council is to
23 study and make recommendations, while you've been on the
24 council for the past five years, you've never done a study,
25 true?

1 A We have never done a study as in the council.

2 Q And the council --

3 A No.

4 Q And the council, in addition to not doing a study, the
5 council has never recommended a new rule or policy to the
6 Commissioner, has it?

7 A We have never started a rule from scratch and made a
8 recommendation --

9 Q The --

10 A -- as in this is our rule and this is what we want to do.

11 Q Sure. And the council has never taken any suggestions
12 from those people of the state of Texas and presented it in a
13 proposal to the Commissioner for a new rule or policy, has it?

14 A Not in a written proposal, but that is pretty much what we
15 do when we get recommendations or suggestions or we hear the
16 information that's coming in. We share it with the
17 Commissioner and --

18 **THE COURT:** Is anything in writing?

19 **THE WITNESS:** The reports to us are in writing. The
20 minutes of our meeting are in writing. But do we formally make
21 a proposal to him? No.

22 **THE COURT:** Or a recommendation?

23 **THE WITNESS:** No.

24 **THE COURT:** Okay.

25 //

1 **BY MR. YETTER:**

2 Q Okay. So just to be -- so we're clear, the council that
3 represents the state of Texas as to the DFPS, has never done
4 its own study, never made its own recommendation, and never
5 actually made a written proposal to the Commissioner for any
6 specific new DFPS policy or rule, true?

7 A Not that I can think of, no.

8 **THE COURT:** Is that -- so that's true what he said?

9 **THE WITNESS:** So, it's true. It's -- sorry.

10 **THE COURT:** Okay. That's okay.

11 **THE WITNESS:** It's true.

12 **THE COURT:** I assume you're not used to doing this?

13 **THE WITNESS:** No. I'm kind of lost. But I'm trying.

14 **BY MR. YETTER:**

15 Q Now, you know that -- I assume you knew that the four --
16 you were deposed in this case, were you not?

17 A Yes.

18 Q And you were deposed just a couple months ago, September
19 23rd, 2014?

20 A Yes.

21 Q I assume you knew about this litigation before you were
22 deposed; is that true?

23 A Yes.

24 Q Now, I want to ask you about --

25 **THE COURT:** It's been a while -- what? Three and a

1 half years?

2 **MR. YETTER:** 2011 I believe, your Honor. So, about
3 three and a half years ago.

4 **BY MR. YETTER:**

5 Q I want to talk to you about a few of the policies and
6 rules that are in issue in this case, Mrs. Martin, all right?

7 A Okay.

8 Q One of them has to do with investigations. In your
9 deposition, you learned for the first time that the residential
10 licensing group in the CPS part of the department had learned
11 that they had a significant error rate in a hundred and eleven
12 investigations of abuse. You knew that -- you learned that for
13 the first time in your deposition, didn't you?

14 A If I remember correctly -- and I have learned this -- you
15 can shoot it up there and tell me exactly what I did say, but
16 if I remember correctly, I did not -- it came up -- I did not
17 remember seeing that but I did make the comment about we get so
18 much documentation, we -- it didn't light up for me. So I
19 wasn't real sure.

20 **THE COURT:** You weren't familiar with it.

21 **THE WITNESS:** But I can -- I wasn't familiar with it.

22 **THE COURT:** You could have seen it but --

23 **THE WITNESS:** I didn't remember offhand.

24 **THE COURT:** I understand.

25 **THE WITNESS:** But I don't want to say that I didn't

1 see it because sometimes I do miss things.

2 **MR. YETTER:** Sure.

3 **THE COURT:** Well, yes. It's in the paperwork.

4 **THE WITNESS:** Okay.

5 **THE COURT:** When you were being papered to over.

6 **THE WITNESS:** Yeah, when I was being papered to
7 death, it may have been in there.

8 **BY MR. YETTER:**

9 Q Plaintiffs' Exhibit 1129.

10 **MR. YETTER:** Let's just blow up the top.

11 Q And see if you get this back in mind. This was the
12 document that you were shown at your deposition from the --

13 **MR. YETTER:** Oh, can you go up a little higher? Just
14 pull it up just a smidgen higher. There you go.

15 Q From the Childcare Licensing PMU, the Performance
16 Management Unit -- you know what that is, don't you,
17 Mrs. Martin?

18 A Yes.

19 Q You were at one time a liaison with the residential
20 Childcare Licensing Group?

21 A Actually, I was the liaison for the childcare portion that
22 did daycare --

23 Q Fair enough, but that's --

24 A -- more so. And I believe at my deposition I said that
25 when we get into residential childcare there are some other

1 people on the council that are a little better at it than I am.

2 I don't want to act like I'm an expert because I'm not.

3 **THE COURT:** So -- I want to make sure I've got this
4 right.

5 **THE WITNESS:** Okay.

6 **THE COURT:** The daycare is not foster children?

7 **MR. YETTER:** It's --

8 **THE COURT:** Those are daycare centers in the
9 community that apply for licensures through Mr. Morris'
10 secretary?

11 **MR. YETTER:** Correct. Correct.

12 **BY MR. YETTER:**

13 Q But you know what the licensing group --

14 A Yes.

15 Q -- the RCCL does --

16 A Yes.

17 Q -- in the DFPS?

18 A Yes.

19 Q It's a critically important role, is it not?

20 A Yes.

21 Q And know what the PMU is? That's the quality assurance
22 group, this unit, within the RCCL that double checks on what's
23 going on?

24 A Correct.

25 Q Or at least it's supposed to. Here is the report that you

1 saw. A report to the residential childcare management.

2 Mr. Morris has already testified. You know Paul Morris, do you
3 not?

4 A Yes.

5 Q It's dated January, 2014, right?

6 A Uh-huh; yes.

7 Q So when you were deposed, that was some nine months later?

8 A Uh-huh; yes.

9 Q In September, 2014? And it's about the residential care
10 physical abuse investigations focused on the unable to
11 determine dispositions? That's UTD, unable to determine?

12 A Correct.

13 Q Do you remember that discussion in your deposition?

14 A Yes.

15 Q Now, you said you don't remember. Maybe you got it in the
16 paperwork but it didn't come to mind?

17 A Uh-huh.

18 Q Right?

19 A Yes.

20 Q I suspect you've looked into it further since then,
21 haven't you?

22 A No.

23 **THE COURT:** Why not?

24 **THE WITNESS:** Wow. This is really hard to say in
25 front of a lot of people. Because two days after that I went

1 into treatment for --

2 **THE COURT:** Never mind.

3 **THE WITNESS:** Thank you. So, yes, if on --

4 **THE COURT:** You didn't have -- just say you didn't
5 have an opportunity.

6 **THE WITNESS:** It's -- okay. I did not have an
7 opportunity. It is on the list of four things that I would
8 like to check into and get much more information on and that I
9 had planned on but I had a medical situation that did not allow
10 me to do that and I apologize.

11 **BY MR. YETTER:**

12 Q No. I understand, Mrs. Martin. This was a very
13 concerning issue when you saw it, wasn't it?

14 A I was concerned by the statistics of it, yes.

15 Q Now, what you -- what you may not know -- let me show you
16 Plaintiffs' Exhibit 1065 -- is that there was a follow up study
17 to the one that you saw. Have you seen the PowerPoint
18 presentation that Jean Shaw -- do you know Jean Shaw at the
19 RCCL who is Paul Morris' -- at least as he described it, his
20 right-hand person?

21 A Yes. I know who she is. Uh-huh. I know who she is and I
22 have not seen this.

23 Q And so, you didn't know, even as you're sitting here
24 today, that there was a follow up to that investigation that
25 showed even more instances of inaccuracy in the investigations

1 of abuse and neglect?

2 A No. I have not seen this and I was not at the October
3 meeting.

4 Q There was an October meeting -- the meeting you're talking
5 about now, is there was a council meeting in October?

6 A Correct. Yes.

7 Q Do you know if there was an agenda for the meeting?

8 A Yes, I do. And offhand I cannot tell you what was on that
9 agenda.

10 Q Can you --

11 **THE COURT:** Who staffs your council?

12 **THE WITNESS:** Who staffs my council? Gwen did. She
13 is no longer with us. In fact, that was in September. So it's
14 somebody by the name of Mary Burgess. And Mary sent it to me
15 and I went through the packet but I was not at that meeting.

16 **THE COURT:** And that's the -- the staff would be
17 funded separately from the department or is that part of the
18 department?

19 **THE WITNESS:** No. It's part of the department.

20 **THE COURT:** Okay. So you're -- the council staff
21 comes from the department, right?

22 **THE WITNESS:** Yes.

23 **THE COURT:** Okay. Thanks.

24 //

25 //

1 **BY MR. YETTER:**

2 Q Now, one of the concerns you had, I assume Mrs. Martin, is
3 that if the -- if the investigations into physical abuse are
4 that wrong -- so many of them are in error, that could call
5 into question the investigations a much broader scope of
6 investigations, right?

7 A Uh-huh; yes.

8 Q And you know that the numbers that the department presents
9 to various people like the federal government are based on
10 these investigations and which confirm whether there is or
11 isn't actual cases of abuse and neglect, right?

12 A Yes.

13 Q And so, if these investigations are fundamentally
14 incorrect -- if the error rate is so high, all the numbers that
15 the state has been giving to the federal government could be
16 wrong, right?

17 A They could be wrong. They could be right. I think part
18 of what bothered me -- or when we talked about at the
19 deposition, somebody said it today -- one of the experts, well,
20 I can't believe those numbers. Well, maybe there was an error
21 somewhere else. I don't know. I really can't make a big
22 opinion on this because I haven't delved into what the original
23 numbers were, where they said that -- they weren't sure they
24 were --

25 **THE COURT:** It looks like in a 12-month period, in a

1 fiscal year, there were a hundred and eleven.

2 **THE WITNESS:** Right.

3 **THE COURT:** That were -- could not determine.

4 **THE WITNESS:** They could not determine, correct.

5 **THE COURT:** Whatever the acronym is.

6 **THE WITNESS:** That's right.

7 **THE COURT:** And when those were audited in-house two
8 more times they found a 75 percent mistake rate. And their --
9 in the process of auditing, and then a third time. And my
10 concern is in the ones they ruled out, if they're the same
11 investigators, 91 percent --

12 **THE WITNESS:** Uh-huh.

13 **THE COURT:** -- of whatever that global population
14 was, if they're the same investigators, is there a percentage
15 rate in those rule outs, too, if they're wrong, especially
16 after hearing from these former foster students -- children.

17 **THE WITNESS:** And that was my -- I think my concern
18 originally when we were talking at the deposition is why were
19 there so many that were undetermined. And that was the part
20 that I wanted -- why so many mistakes?

21 **THE COURT:** Not so many --

22 **THE WITNESS:** Were they mistakes?

23 **THE COURT:** Not a large number of undetermined.

24 **THE WITNESS:** Kind of --

25 **THE COURT:** A hundred and eleven out of --

1 **THE WITNESS:** Right.

2 **THE COURT:** -- you know, and that was a -- I can't
3 remember what the total amount was.

4 **MR. YETTER:** I'll give you that figure, your Honor.

5 **THE COURT:** Okay.

6 **MR. YETTER:** Defendant's Exhibit 249. Let's put that
7 up right now.

8 **THE COURT:** Three thousand was the total.

9 **THE WITNESS:** Okay.

10 **THE COURT:** So 90 percent of 3,000 were ruled out.

11 **MR. YETTER:** Here is --

12 **THE WITNESS:** But --

13 **MR. YETTER:** Here is the chart, your Honor, that -

14 **THE WITNESS:** -- it was the other percentage.

15 **MR. YETTER:** -- that counsel provided yesterday I
16 think. This is residential childcare licensing.

17 **BY MR. YETTER:**

18 Q Do you see that, Mrs. Martin?

19 A Yes.

20 Q Investigation fiscal year 2013 and fiscal year 2014 and
21 the -- and so the total number in the second column -- that was
22 the total investigations for 2013 was nineteen hundred and
23 fifty-two. And for 2014 was twenty-one hundred and sixty-one.
24 And the total -- do you see the acronyms there? UTD is the
25 unable to determine, 86 --

1 A Uh-huh.

2 Q -- for fiscal year 2013. And 90 for fiscal year 2014.

3 And then the RTB, do you happen to know what that means?

4 Reason to believe?

5 A Right. Correct.

6 Q Those are the confirmed cases of physical, sexual and --
7 abuse and negligent supervision, right?

8 A Correct.

9 Q Those are children that have -- that the internal
10 investigation says they were abused in a state of Texas foster
11 care placement, true?

12 A Correct.

13 Q Those are the ones that are the most concerning if you
14 miss them, aren't they?

15 A Yes.

16 Q Eighty -- a very small number -- 61. Out of almost 2,000
17 in 2013 and 87 out of about twenty-one hundred in 2014. The
18 big number every year, Ms. Martin, is ruled out entirely, isn't
19 it?

20 A Yes, it is. The largest number.

21 Q So, 90 -- in 2013, ninety-two and a half percent, the same
22 investigate -- and these are the -- this is -- there's only one
23 investigation group, isn't there?

24 A Yes. For CPS.

25 Q The same investigators are ruling out 92 percent and

1 saying nothing happened at all. They're not saying they're not
2 sure. They're saying by a preponderance of the evidence,
3 nothing happened, true? According to this chart?

4 A According to this chart, yes.

5 Q And in 2014, just under 92 percent were saying nothing at
6 all happened. Now -- do you see that number?

7 A Yes.

8 Q Now, Mrs. Martin, we are now almost a year after that
9 follow up which was a year after the actual incidents occurred.

10 A I follow you.

11 Q So, two years after these incidents occurred, would you
12 believe -- don't you think it would be high time to figure out
13 whether these investigations were properly done?

14 A I would think that they are probably -- my gut is that
15 they're already looking at that and finding out.

16 **THE COURT:** They're not.

17 A And they're not.

18 **THE COURT:** They're not.

19 **BY MR. YETTER:**

20 Q They're not -- they're not.

21 **THE COURT:** I asked the man in charge yesterday,
22 Mr. Morris.

23 **THE WITNESS:** Okay.

24 **THE COURT:** And I said why not? And he said they're
25 still redoing the small subset of --

1 **THE WITNESS:** The process.

2 **THE COURT:** -- unable to determine instead of going
3 forward to determine the others. It looked to me like they
4 were trying to, one more time, see if they hadn't been -- okay
5 -- if they could salvage this problem.

6 **THE WITNESS:** Problem. Okay.

7 **BY MR. YETTER:**

8 Q Doesn't that concern you, Mrs. Martin?

9 A Yes, that does concern me.

10 Q Concern you greatly about how these investigations of
11 instances of abuse to children -- physical and sexual abuse to
12 children -- are not being followed up to verify that they were
13 accurately done?

14 A Yes. That concerns me.

15 Q Without good investigations, you can't keep children safe,
16 can you?

17 **THE COURT:** All right -- I just want to stop just for
18 a minute.

19 **MR. YETTER:** Sure.

20 **THE COURT:** Because this is a volunteer person --

21 **MR. YETTER:** Yes.

22 **THE COURT:** -- who's serving on a volunteer board. I
23 want to make sure that she doesn't -- that she is not -- or is
24 not concerned about being subject to some kind of liability.

25 **MR. YETTER:** Fair enough, your Honor. Go ahead.

1 **THE COURT:** And I do this in other hearings, too, and
2 I'm sorry. I think I got -- I let you go too far down the line
3 here. But if you -- she may want to consult with an attorney.
4 I don't know if they have any kind of -- you know, on bank
5 boards they give you corporate -- you know, liability
6 insurance.

7 **THE WITNESS:** Right. Correct.

8 **THE COURT:** I bet they don't do anything on state
9 boards.

10 **THE WITNESS:** Not as far as --

11 **THE COURT:** And I don't want her to say things that
12 can come back and -- without proper legal advice. Not that I'm
13 recommending -- not that I'm saying you're in trouble. I just
14 don't like this line of going, okay?

15 **THE WITNESS:** Yes. No, I -- I kind of agree with
16 that. I don't want to say anything that I shouldn't say or
17 that's illegal.

18 **THE COURT:** Well, you want to tell the truth.

19 **THE WITNESS:** And I'm kind of lost --

20 **THE COURT:** Yes, you want to --

21 **THE WITNESS:** -- on this one part of which I was in
22 the deposition also.

23 **THE COURT:** It's okay. You want to tell the truth
24 but there's no point in sitting and being a volunteer on a
25 board and possibly -- and I'm not saying that you are but

1 possibly subjecting yourself to some kind of liability. Would
2 you like to get legal counsel before you proceed? And, again,
3 I don't mean to scare you. I do this all the time.

4 **THE WITNESS:** Okay. Would I like to get -- I'm
5 trying to be cooperative so I don't --

6 **THE COURT:** They're not -- I don't think -- I don't
7 know if they're your counsel or not. I don't know if
8 representing the state of Texas they represent you or not.
9 Maybe they can tell you. Do you want to take -- why don't you
10 go over there and visit with them?

11 **THE WITNESS:** May I? Thank you.

12 **THE COURT:** Please. And just see how you want to
13 proceed. I mean, it seems like employees are covered. I don't
14 want to get lay people uncomfortable.

15 **MR. YETTER:** I understand, your Honor.

16 **(Pause)**

17 **MR. SPEAKER:** Your Honor, may we step out --

18 **THE COURT:** Yes, of course. Mr. Albright, you go
19 with them.

20 **MR. ALBRIGHT:** I'm going with them.

21 **THE COURT:** Okay. We're taking a break.

22 **MR. YETTER:** Can I take a break, your Honor?

23 **THE COURT:** Yes, sir.

24 **(Recess taken from 4:32 to 4:49 p.m.)**

25 //

1 **MR. ALBRIGHT:** Your Honor? Ms. Martin has asked that
2 this issue be resolved --

3 **THE COURT:** Before she continues.

4 **MR. ALBRIGHT:** -- before she continues.

5 **THE COURT:** That's fine.

6 **MR. ALBRIGHT:** And she is unwilling to continue at
7 this time.

8 **THE COURT:** I hope I didn't give her -- make the
9 wrong suggestion but every time somebody heads down -- this is
10 where I get concerned about it.

11 **MR. ALBRIGHT:** And I would see three options -- one
12 is she doesn't need counsel, doesn't want counsel. I don't
13 think that's going to be the case. The A.G. might be able to
14 represent her.

15 **THE COURT:** But you need to have clearance to do
16 that, I assume.

17 **MR. ALBRIGHT:** But we need -- and I don't think it
18 can be us. Or she can get private counsel. But the bottom
19 line is --

20 **THE COURT:** I'm hoping that the A.G.'s Office --

21 **MR. ALBRIGHT:** -- and I'm glad you alerted her.

22 **THE COURT:** Pardon?

23 **MR. ALBRIGHT:** I understand the Court raising the
24 point and so I think we're at a point where she really is
25 uncomfortable going forward.

1 **THE COURT:** Of course.

2 **MR. ALBRIGHT:** And we'll -- we'll just have to --

3 **THE COURT:** I hope the A.G. can settle this
4 especially being a volunteer on a state council.

5 **MR. ALBRIGHT:** We're elevating it to a pay grade
6 above mine.

7 **THE COURT:** Fine.

8 **MR. ALBRIGHT:** And we'll have a response for the
9 Court. But if we don't have that answer now other than --

10 **THE COURT:** When would you anticipate doing that?

11 **MR. ALBRIGHT:** I think we can let you know tomorrow.

12 **THE COURT:** Okay. So how do you want to proceed now?
13 I'd like to give her that opportunity.

14 **MR. YETTER:** I understand, your Honor. We talked
15 outside and I said that I understood their position. Not that
16 we agree with it. We'd like to continue with the examination.
17 If she wants to get her private counsel or some arrangement --

18 **THE COURT:** Or some representation --

19 **MR. YETTER:** We understand that.

20 **THE COURT:** -- that somebody is on her side.

21 **MR. YETTER:** We're certainly -- we understand if the
22 Court wants to recess her testimony at this stage and then
23 we --

24 **THE COURT:** I'm going to.

25 **MR. YETTER:** -- we would move on with another

1 witness.

2 **THE COURT:** And then -- should I call her in and tell
3 her that?

4 **MR. ALBRIGHT:** Yes.

5 **THE COURT:** Okay.

6 **MR. ALBRIGHT:** I think she'd feel comfortable if you
7 told her that.

8 **THE COURT:** Okay.

9 **(Pause)**

10 **THE COURT:** So Mr. Yetter disagrees with me?

11 **MR. YETTER:** No. I understand, your Honor. I do
12 understand. And it's her prerogative so --

13 **THE COURT:** I haven't read her deposition so I don't
14 know that. I mean, that certainly would probably be admissible
15 but --

16 **MR. ALBRIGHT:** Well, we talked about -- we talked
17 about that, but we're unable to resolve that. She --

18 **MR. YETTER:** He offered to use the deposition. There
19 are things that she didn't have in the deposition that I would
20 like to ask her about.

21 **THE COURT:** That -- of course.

22 **MR. YETTER:** That we've learned since then.

23 **THE COURT:** Has somebody gone to get her?

24 **MR. ALBRIGHT:** Yes. I believe.

25 **THE COURT:** She may have gone.

1 **MR. ALBRIGHT:** Someone exited quickly upon the -- Oh,
2 there she is.

3 **THE COURT:** And, Ms. Martin, I am sorry. I hope I
4 didn't scare you or do anything. It's just that I just hate to
5 see volunteers put in this kind of position.

6 **THE WITNESS:** No, I appreciate that.

7 **THE COURT:** And so, what we're going to do is recess
8 your testimony --

9 **THE WITNESS:** Okay.

10 **THE COURT:** -- until there's an answer either if you
11 want a private attorney, you can get one. I just hate for you
12 to spend the money if A.G. should be actually representing you.

13 **THE WITNESS:** Okay.

14 **THE COURT:** And can represent to you and to the Court
15 that you're represented.

16 **THE WITNESS:** Okay. Great.

17 **THE COURT:** And they'll have that answer hopefully by
18 8:00 o'clock in the morning. No, probably by noon at the
19 latest.

20 **MR. ALBRIGHT:** I'll push as hard as I can, Judge.

21 **THE COURT:** Don't you think?

22 **MR. ALBRIGHT:** Yeah.

23 **THE COURT:** And so, I suggest -- are -- were you
24 staying up here anyway?

25 **THE WITNESS:** Well, I planned on going home in about

1 two hours back to McAllen but if I'm staying, I'm staying so --

2 **THE COURT:** Well, if you'd like -- I don't see any
3 reason why you can't go home because I'm not going to use your
4 -- I'm not going to have your testimony until afternoon
5 tomorrow.

6 **THE WITNESS:** Okay.

7 **THE COURT:** And I think that they -- as soon as they
8 find out, they can call you and come back up. And it's about a
9 two -- well, it depends on how fast you drive.

10 **THE WITNESS:** Yeah.

11 **THE COURT:** About a two hour drive.

12 **THE WITNESS:** Okay.

13 **THE COURT:** And then you can come back or you can
14 come back next week.

15 **THE WITNESS:** Okay. We'll figure it out.

16 **THE COURT:** But we'll figure it out. The counsel can
17 figure it out.

18 **THE WITNESS:** Okay. Great.

19 **THE COURT:** But I don't want you to lose sleep over
20 this issue.

21 **THE WITNESS:** No, I won't.

22 **THE COURT:** Okay.

23 **THE WITNESS:** Well, I already have.

24 **THE COURT:** Sorry.

25 **THE WITNESS:** Okay. No. No problem at all.

1 Appreciate it and I appreciate you saying something. And we'll
2 figure it out.

3 **THE COURT:** And maybe you can come back next week
4 because it may be -- it's too much to and froing right now.

5 **THE WITNESS:** Okay. Great.

6 **THE COURT:** Thank you.

7 **MR. ALBRIGHT:** Thank you, Judge.

8 **(Witness Excused)**

9 **(Requested transcription concluded at 4:53 p.m.;**
10 **proceeding continued)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is positioned above a horizontal line.

January 8, 2015

TONI HUDSON, TRANSCRIBER